

United States Bankruptcy Court
Eastern District of Michigan
Southern Division

In re:

Michael and Susan Reese,
Debtor.

Case No. 05-73448-R
Chapter 13

Opinion and Order Denying Motion for Reconsideration

Wethersfield Condominium Association has filed a motion for reconsideration of the Court's July 11, 2007, Order Granting Trustee's Objection to Proof of Claim.

This motion is to be decided pursuant to Local Bankruptcy Rule 9024-1(c), which provides:

Generally and without restricting the discretion of the Court, motions for rehearing or reconsideration which merely present the same issues ruled upon by the Court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the Court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.

LBR 9024-1(c).

Wethersfield's proof of claim sought fees and expenses pursuant to M.C.L.A. § 559.206, which provides:

If a condominium association is successful in an action arising from the alleged default of a co-owner, the association may recover costs and reasonable attorney fees associated with that action, to the extent provided by the association's bylaws.

M.C.L.A. § 559.206.

The fees at issue were not incurred in “an action arising from the alleged default” of the debtors. They were incurred in the debtors’ bankruptcy action. The statute simply is not broad enough to cover costs and expenses incurred by Wethersfield in protecting its interest in the debtors’ bankruptcy. Accordingly, Wetherfield has failed to demonstrate a palpable defect and its motion for reconsideration is denied.

It is so ordered.

Not for Publication

Signed on October 26, 2007

/s/ Steven Rhodes
Steven Rhodes
Chief Bankruptcy Judge